No. 303

Supreme Court of the United States

OCTOBER TERM, 1941

UNITED STATES OF AMERICA,
Respondent,

AGAINST

C. M. LANE LIFEBOAT COMPANY, INC., and HARTFORD ACCIDENT AND INDEMNITY COMPANY,
Petitioners,

WALTER J. KROLMAN,
Intervenor.

NOTICE OF MOTION FOR WRIT OF CERTIORARI AND PETITION AND BRIEF IN SUPPORT OF SAME

CORNELIUS C. WEBSTER,
ODIN GUSTAFSON,
Attorneys and Counsel for Petitioners.

JEFFREY PRESS, INC.

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Opinions Below.

The oral opinion of District Judge Inch is not reported. The opinion of the United States Circuit Court is reported in 118 Fed. (2nd) 793.

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Respondent,

against

C. M. LANE LIFEBOAT COMPANY, INC., and HARTFORD ACCIDENT AND INDEMNITY COMPANY,

Petitioners,

WALTER J. KROLMAN,

Intervenor.

SIRS:

PLEASE TAKE NOTICE that upon a certified copy of the transcript of the record herein and upon the annexed petition of C. M. Lane Lifeboat Company, Inc., sworn to on the 22nd day of July, 1941, we shall make the motion hereto annexed before the Supreme Court of the United States at the Capitol in the City of Washington, District of Columbia, on Monday, the day of October, 1941, at the opening of the court on that day or the next day upon which the court may sit for hearing motions, or as soon thereafter as counsel can be heard, and that we shall then and there move for such other and further relief in the premises as may be just.

Dated, New York City, N. Y., July 22, 1941.

Yours, &c.,

CORNELIUS C. WEBSTER,
ODIN GUSTAFSON,
Attorneys and Counsel for Petitioners.

To:

HAROLD M. KENNEDY, Esq.,
U. S. Attorney,
Brooklyn, N. Y.,
Attorney for Respondents.

DEAN RAMEY, Esq.,
Attorney for Intervenor, N. Y. City, N. Y.

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1941

UNITED STATES OF AMERICA,

Respondent,

against

C. M. LANE LIFEBOAT COMPANY, INC., and HARTFORD ACCIDENT AND INDEMNITY COMPANY,

Petitioners,

WALTER J. KROLMAN,

Intervenor.

To the Honorable, The Supreme Court of the United States:

The petition of C. M. Lane Lifeboat Company, Inc., and Hartford Accident and Indemnity Company, respectfully shows to this court as follows:

Plaintiff, the United States of America, seeks in this action to recover damages alleged to have been sustained by reason of the claimed breach of certain written contracts entered into between the plaintiff and the C. M. Lane Lifeboat Company, Inc. The defendant, Hartford Accident & Indemnity Company furnished the performance bonds required under the various contracts.

This action was brought in the United States District Court for the Eastern District of New York. The jurisdiction of the court was based upon the fact that the action was instituted by The United States of America as plaintiff.

The trial resulted in a verdict for the plaintiff against the defendant, C. M. Lane Lifeboat Company, Inc., in the sum of $12,644.32 and against the defendant, Hartford Accident and Indemnity Company in the sum of $9,140.20. Final judgment was entered on May 2nd, 1940.

The case was taken to the United States Circuit Court of Appeals for the Second Circuit which court on April 23, 1941, affirmed the judgment and ordered that a mandate issue to the said district court in accordance with the decree.

Your petitioners are advised that the Circuit Court of Appeals was in error in affirming the judgment of the District Court in that the Court construed the standard government contracts in question contrary to the plain language thereof, and further, that the court's decision is in conflict with the decision on the same subject matter in the United States Court of Claims.

WHEREFORE your petitioners respectfully pray that a Writ of Certiorari be issued out of and under the seal of this court directed to the United States Circuit Court of Appeals for the Second Circuit commanding said Court to certify and send to this Court on a day certain to be therein designated, a full and complete transcript of the record and all proceedings in said Circuit Court of Appeals in this case which was entitled in that Court "United States of America, Plaintiff-Appellee, against C. M. Lane Lifeboat Company, Inc., and Hartford Accident and Indemnity Company, Defendants-Appellants, Walter J. Krolman, Intervenor" to the end that said cause may be reviewed and determined by this court as provided by law, and that your petitioners may have such other and further relief, or remedy, in the premises as to this Court may seem appropriate; and that said judgment of the said Circuit Court of

Appeals in said case, and every part thereof, may be reversed by this Honorable Court.

AND YOUR PETITIONERS WILL EVER PRAY.

C. M. LANE LIFEBOAT COMPANY, INC.,
HARTFORD ACCIDENT & INDEMNITY COMPANY,
Petitioners.

CORNELIUS C. WEBSTER,
ODIN GUSTAFSON,
Attorneys and Counsel for Petitioners.

State of New York,
County of New York—ss.:

ODIN GUSTAFSON, being duly sworn, deposes and says: That he is one of the counsel for C. M. Lane Lifeboat Company, Inc., and Hartford Accident and Indemnity Company, the petitioners above-named; that he has read the foregoing petition and that the facts therein stated are true to the best of his information and belief.

ODIN GUSTAFSON.

Sworn to before me this
22nd day of July, 1941.

CAROLINE BERNHARD,
Notary Public,
New York County.

I HEREBY CERTIFY that I have examined the foregoing petition and in my opinion the said petition is well founded in law and in fact and the case one in which the prayer of the petitioners should be granted.

ODIN GUSTAFSON.